

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:09-cv-00436-W**

SUZANNE B. SMITH,)	
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

THIS MATTER comes now before the Court upon Memorandum and Recommendation (M&R) of United States Magistrate Judge David S. Cayer, recommending that Plaintiff's Motion for Summary Judgment be GRANTED, Defendant's Motion for Summary Judgment be DENIED, the Commissioner's decision be REVERSED, and this matter be REMANDED for further proceedings. The time for filing objections as provided in 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b) has expired, and no objections have been filed by any party.

The district court conducts a *de novo* review of those portions of a magistrate judge's M&R to which specific objections are filed. 28 U.S.C. § 636(b). “[I]n the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005). Upon careful review of the record, “the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(c).

After a careful review of the record, the Court finds that the magistrate judge's findings and recommendations are neither clearly erroneous nor inconsistent with governing law. Thus, the Court

hereby accepts the M&R of Magistrate Judge Cayer and adopts it as the final decision of this Court for all purposes relating to this case.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Summary Judgment (Doc. No. 9) is GRANTED; Defendant's Motion for Summary Judgment (Doc. No. 10) is DENIED; the Commissioner's decision is hereby REVERSED; and this matter is REMANDED for a new hearing pursuant to Sentence Four of 42 U.S.C. § 405(g).

IT IS SO ORDERED.

Signed: June 8, 2010



Frank D. Whitney
United States District Judge

